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Computer and Internet Law**Date:** January 18, 2006**To:** Examiner Joseph A. Fischetti Art Unit: 3627
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Attached please find the following documents for the above referenced patent application:

- 1) Transmittal Form;
- 2) Response to the Notification of Non-Compliant Appeal Brief;
- 3) Copy of the Notification of Non-Compliant Appeal Brief; and
- 4) Replacement Appeal Brief [32 pages].

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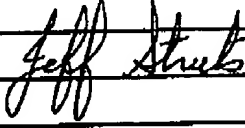
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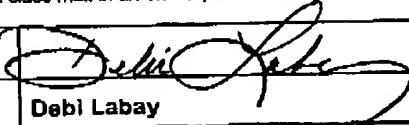
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Patent
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Application No. : 09/963,715
Applicant : Rabindranath Dutta
Filed : September 26, 2001
TC/A.U. : 3627
Examiner : Joseph A. Fischetti
Docket No. : AUS920010319US1
Customer No. : 24945

Confirmation No.: 9288

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**RESPONSE TO NOTICE OF NON-COMPLIANT
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Sir:

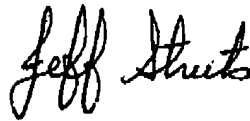
Applicant files this Response to Notice of Non-Compliant Appeal Brief mailed on December 22, 2005, and having a one-month period for response set to expire on January 22, 2006 The notice (copy enclosed) indicates that the brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal and that the summary must only be directed to independent claims on appeal.

Enclosed for filing in the above-referenced application is a replacement Appeal Brief.

Patent
Attorney Docket No.: AUS920010319US1
(IBM-0013)

In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/IBM-0013 of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,



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**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/963,715

Applicant(s)

DUTTA ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 12 October 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

No Prayer for relief is needed. Also, Summary must only be directed to independent claims on appeal.

JOSEPH A. FISCHETTI
PRIMARY EXAMINER
 Joseph A. Fischetti
 Primary Examiner
 Art Unit: 3627

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	iii
(1) Real Party in Interest	1
(2) Related Appeals and Interferences	1
(3) Status of the Claims	1
(4) Status of Amendments	1
(5) Summary of Claimed Subject Matter	1
(6) Grounds of Rejection to be Reviewed on Appeal	3
(7) Argument	3
a. Claims 1, 2, 4, 5, 13, 16, 17, 19, and 20 stand rejected under 35 U.S.C. 103(a)	3
1. Review of the cited prior art	3
2. Applicable law	5
3. The cited prior art fails to teach or suggest all the claim limitations of independent claims 1 and 16	7
4. The cited prior art fails to teach or suggest all the claim limitations of claims 2 and 17	9
5. No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references	10
b. Claims 1, 6-9 and 21-24 stand rejected under 35 U.S.C. 103(a)	12
1. Review of the cited prior art	12
2. The cited prior art fails to teach or suggest all the claim limitations of claims 6-9 and 21-24	13
3. The cited prior art fails to teach or suggest all the claim limitations of claim 7	13

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

4. No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references.....	14
5. Non-analogous art cannot be used to establish obviousness	15
c. Claims 1, 10-12, 14, and 25 stand rejected under 35 U.S.C. 103(a).....	16
1. Review of the cited prior art	16
2. The cited prior art fails to teach or suggest all the claim limitations of claims 11-12 and 25.....	17
d. Claims 1, 3 and 18 stand rejected under 35 U.S.C. 103(a).....	17
1. Review of the cited prior art	18
2. The cited prior art fails to teach each all the claim limitations of claims 3 and 18	18
Appendices.....	20

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

TABLE OF AUTHORITIES

CASES

<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	6
<i>Hybritech Inc. v. Monoclonal Antibodies, Inc.</i> , 802 F.2d 1367 (Fed. Cir. 1986).....	6
<i>In re Royka</i> , 490 F.2d 981 (CCPA 1974).....	6
<i>In re Wilson</i> , 424 F.2d 1382 (CCPA 1970)	6
<i>In re Mills</i> , 916 F.2d 680 (Fed. Cir. 1990).....	6
<i>In re Rouffet</i> , 149 F.3d 1350 (Fed. Cir. 1998)	7, 11, 12, 15, 16
<i>In re Lee</i> , 277 F.3d 1337 (Fed. Cir. 2002)	7
<i>In re Kotzab</i> , 217 F.3d 1365 (Fed. Cir. 2000).....	7
<i>In re Wood</i> , 599 F.2d 1032 (CCPA 1979)	16, 17

STATUTES

35 U.S.C. 103.....	4, 6, 13, 16, 17, 18
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REGULATIONS

37 C.F.R. 41.37	1
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Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

APPEAL BRIEF

Appellant timely filed a Notice of Appeal to this Board on August 11, 2005 appealing the decision of the Examiner in the Final Office Action dated May 11, 2005 for the above captioned application. Appellant hereby submits this Appeal Brief pursuant to 37 C.F.R. 41.37.

(1) REAL PARTY IN INTEREST

The real party of interest in this action is International Business Machines Corporation, the recorded assignee of the entire right, title and interest in and to the patent application now under appeal before this Board. International Business Machines Corporation is a corporation of the State of New York, having a place of business at Armonk, New York 10504.

(2) RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellants, Appellants' legal representative, or Assignee that will affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal.

(3) STATUS OF THE CLAIMS

The status of all claims in the application under appeal is as follows: claims 1-14 and 16-38 are pending in the application. Claims 1-14 and claims 16-25 stand rejected and are under appeal. Claims 15 and 26-38 stand withdrawn from consideration.

(4) STATUS OF AMENDMENTS

No amendments to the claims were requested subsequent to the Final Office Action dated May 11, 2005 from which this appeal is taken.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is a method for a server to obtain parent authorization of minor-proposed e-transactions. The method overcomes barriers that prevent expanded e-commerce

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

with minors, including enabling a parent to freely and conveniently review information describing an e-transaction proposed by a minor and selectively authorizing or rejecting all or part of a minor's proposed electronic transaction. (Specification, p. 4, lines 5-16). "E-commerce" means purchasing goods or services by a purchaser using the internet ("e-purchaser") and typically involves the submission of an e-purchaser's name, credit card number and credit card expiration date in order to complete a transaction using the internet, which is an "e-transaction." (Specification, p. 1, lines 24-29).

The claimed invention includes electronically receiving an e-transaction proposal from a minor. (Specification, p. 12, lines 16-20). The server may then automatically create and electronically transmit a first message to the parent, the message describing the proposed e-transaction and soliciting the parent's authorization of the proposed e-transaction. (Specification, p. 14, lines 12-17). The parent may authorize the entire proposed e-transaction or may selectively cancel objectionable items to authorize only a portion of the proposed e-transaction. (Specification, FIG. 7, states 420, 425 and 465). The message to the authorizing party may be made as an e-mail to an address provided by the minor or to an email address previously supplied by the authorizing party and stored in a database. (Specification, p. 14, lines 15-20). In response to the first message sent to the parent, the server may electronically receive a reply message from the parent authorizing an e-transaction and further providing e-transaction instructions. (Specification, FIG. 7, states 465 and 425). After receiving the e-transaction authorization and instructions from the parent, the server may automatically execute the e-transaction instructions by completing the e-transaction and providing purchase confirmation and delivery details to the minor. (Specification, p. 12, lines 25-30).

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

Independent claim 16 is a computer program product including instructions embodied on a computer readable medium. The instructions perform the method steps described with respect to claim 1, above.

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

a. Claims 1, 2, 4, 5, 13, 16, 17, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.*

b. Claims 1, 6-9 and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,674,368 issued to Hawkins, *et al.*

c. Claims 1, 10-12, 14, 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,742,141 issued to Miller.

d. Claims 1, 3 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.* and further in view of U.S. Patent No. 6,052,675 issued to Checchio.

(7) ARGUMENT

a. Claims 1, 2, 4, 5, 13, 16, 17, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, *et al.* in view of U.S. Patent No. 5,708,422 issued to Blonder, *et al.*

(1) Review of the cited prior art. Lotvin discloses a method and apparatus for motivating children to devote more time to educational and cultural enrichment by awarding

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

them with points whenever they complete educational tasks. (Lotvin, Abstract). These points can then be redeemed towards the purchase of goods and services offered through the system by its commercial participants. *Id.* Parents purchase the services of the provider by signing up for the service and by providing a credit card number to pay for the services on a monthly basis and also to pay for the selections made by the children for goods and services when they cash in their points. (Lotvin, col. 2, lines 24-30). Optionally, the parents may exclude certain categories of goods from being made available to the children when the children cash in their points. (Lotvin, col. 2, lines 39-42 and col. 7, lines 1-5). For example, the parents may indicate that toys of a violent nature are to be precluded. (Lotvin, col. 13, lines 50-51). When the child is ready to cash in his earned points, the system *provides a menu of purchasing choices* consistent with the number of points the child has earned, the spending limit set by the parent and the parental exclusion preferences. (Lotvin, col. 13, lines 45-52). The child makes his selections and the system processes the order. (Lotvin, col. 13, lines 55-67).

Blonder discloses an automated method for alerting a customer that a transaction is being initiated and for authorizing the transaction based upon a confirmation/approval by the customer. (Blonder, Abstract). Blonder discloses that a computer system database may send out an alert message over a two-way pager to a customer concerning a business transaction and that the customer can then approve the transaction by sending back an authorization code to the database. (Blonder, col. 9, lines 11-31). The system disclosed by Blonder is an automated authorization system that provides a database that can both receive the authorization code from the customer and compare the code to a stored authorization code to provide automatic authorization of a transaction. (Blonder, col. 15, lines 10-27). Blonder discloses the problems that result from an inability to quickly and efficiently inform the individual customer that his customer identifier

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(e.g., credit card, calling card, debit card, PIN, password, etc.) is being used in a transaction for a particular purpose and the inability of the customer to respond thereto in order to confirm or deny its use. (Blonder, col. 2, lines 55). Blonder discloses an automated method to solve this problem that includes informing the customer of the pending transaction and authorizing the transaction only in response to a customer confirmation. *Id.*

(2) Applicable law. A claimed invention is unpatentable if the differences between it and the prior art “are such that the subject matter *as a whole* would have been obvious at the time the invention was made to a person having ordinary skill in the art.” 35 U.S.C. 103(a) [emphasis added]. The ultimate determination of whether an invention is or is not obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). As the Federal Circuit has stated, “Focusing on the obviousness of substitutions and differences instead of on the invention *as a whole* . . . was a legally improper way to simplify the difficult determination of obviousness.” *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1383 (Fed. Cir. 1986) [emphasis added].

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

An additional requirement for providing a *prima facie* case of obviousness is that the Examiner must provide a basis for combining or modifying the cited references. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990).

In the case *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998), the Court states:

When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references. Although the suggestion to combine references may flow from the nature of the problem, the suggestion more often comes from the teachings of the pertinent references or from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Therefore, when determining the patentability of a claimed invention which combines two known elements, the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.

Id. at 1356 [citations omitted].

In the case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002), the Federal Circuit held:

When patentability turns on the question of obviousness, the search for and analysis of the prior art includes *evidence* relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness.

Id. at 1343, emphasis added.

The courts have recognized that most inventions are made up of elements that have already been discovered and utilized. It is the specific combination of these elements, however, that define the invention being claimed. For example, in the case *In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000), the Court states:

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

Most, if not all inventions arise from a combination of old elements . . . Thus, every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant.

Id. at 1395.

(3) The cited prior art fails to teach or suggest all the claim limitations of independent claims 1 and 16. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because neither one of the cited references teaches nor suggests that a reply message received from the parent includes *e-transaction instructions*. Applicant claims that the reply message must contain both an (1) authorization and (2) instructions. Furthermore, neither of the cited prior art references teach or suggest electronically receiving an e-transaction proposal from a minor.

Lotvin does not disclose sending any messages to the parent asking for either (1) authorization or (2) instructions concerning a pending e-transaction and therefore, there is no suggestion or teaching that the parent sends a return message. There are *no messages* being sent back by the parent before an e-transaction (*not* an e-transaction proposal) by the minor is executed including messages that (1) authorize the transaction and (2) provide further e-transaction instructions.

It is important to note that there is *no e-transaction proposal* sent by the minor in Lotvin because Lotvin discloses that the method displays a menu of pre-selected and approved purchases that the minor may select from. Therefore, the minor selects the choices and the result

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

is not a "proposal" that must be approved, but is instead, the order of the minor for pre-selected and approved goods.

Furthermore, Lotvin discloses that both the authorization and any constraints to what the minor may purchase are already obtained before the minor makes any choices as to what to buy with the "points" he has earned. Only pre-arranged choices are provided for the minor to choose from. Lotvin discloses that the parent provides all required information when the parent signs the child up for the educational services. The parent provides a credit card number when the parent signs the child up for the educational services and provides a set amount that the child is allowed to spend on the prizes when the child cashes in his points. Lotvin further discloses that the parent may exclude certain toys or goods from the mix that is offered to the minor when the minor is ready to "spend" his points.

Blonder discloses sending a message to the parent asking for (1) authorization and receiving an authorization message back from the parent, in the form of a code, but does not teach or suggest that the parent send additional instructions back *with* the parent's authorization. Lotvin clearly points out that what is disclosed therein is an automatic *authorization* method; indeed, its title is Transaction Authorization and Alert System. (Blonder, Title) Blonder does not suggest or teach that this system may be expanded to receive *e-transaction instructions* in the authorization message received from the parent. Furthermore, the transaction request is not sent electronically *by the minor*, as claimed by Appellant, but is instead sent by the *retailer* in response to the minor attempting to purchase goods in the retail establishment.

Because neither of the cited prior art references suggest or teach that a response message from a parent include *both* a transaction authorization *and* an e-transaction instruction, and because neither of the cited prior art references suggest or teach that a server electronically

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

receives (1) an e-transaction *proposal* (2) from a minor, a *prima facie* case of obviousness has not been presented. Appellant therefore respectfully requests that the Board find independent claims 1 and 16 presented on appeal to be patentable as well as, therefore, all other claims presented on appeal that depend therefrom.

(4) The cited prior art fails to teach or suggest all the claim limitations of claims 2 and 17. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because neither one of the cited references teaches nor suggests a server creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.

The Examiner cites Blonder as suggesting or teaching this limitation as Blonder discloses that an authorization from the transaction processing center to the retailer, where the minor is waiting for the goods to be purchased, may be the third message if the retailer relays the message to the child. (Final Office Action, p. 3). However, such is not what Appellant claims.

Blonder discloses that what is sent back to the retailer is an *authorization code* that identifies the transaction and can thereby be used to verify that the authorization process was properly adhered to by the retailer. (Blonder, col. 12, lines 15-25). Typical reasons for denial include that the balance on the customer's account has exceeded its credit limit or that the customer has not responded to the request for authorization. *Id.*

Blonder does not disclose that the parent's response is sent electronically as a third message notifying the minor of the parent's response. At best, relaying the message to the child by the retailer would be a *fourth* message from the retailer to the minor and such message would not be sent electronically but would be spoken to the child. As Appellant pointed out above, neither of the prior art references teach or suggest that a server electronically receives an e-

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

transaction proposal from a minor and here, neither prior art reference teaches or suggests the limitations of claims 2 and 17 - that the server creates and sends a third message notifying the minor of the parent's response to the proposed e-transaction. The third message cited by the Examiner only informs the retailer that the credit card issuer has approved the transaction - not the minor.

Blonder does not disclose that the retailer even knows that the parents have or have not been contacted. Therefore, at best, Blonder discloses that the retailer can tell the minor that the transaction was or was not approved by the credit card company, but the retailer cannot tell the minor (1) that the parents were contacted or (2) that the parents did or did not approve the transaction. Such information is simply not provided in the authorization code provided to the retailer by the credit card issuer.

Because neither of the cited prior art references suggest or teach that the server creates and sends an electronically transmittable third message notifying the minor of the parent's response, a *prima facie* case of obviousness has not been presented. Appellant therefore respectfully requests that the Board find claims 2 and 17 presented on appeal to be patentable.

(5) No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references. Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented because there has been no evidence provided relevant to the finding of whether there is a teaching, motivation or suggestion to select and combine the references. The Examiner has stated that it would be obvious to modify the method of Lotvin to include the Blonder process because this would provide a more flexible method in that a case by case approval can be taken of products purchased as opposed to the more rigid pre-selection of certain products by Lotvin. (Final Office Action, p. 3).

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

As the *Roffet* Court has taught, "Although the suggestion to combine references may flow from the nature of the problem, the suggestion more often comes from the teachings of the pertinent references or from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field." *In re Rouffet*, 149 F.3d at 1356.

Appellant respectfully asserts that there is no motivation to combine the cited references. First, addressing the first *Rouffet* prong, there is no evidence that the nature of the problem to be solved provides any evidence of a motivation to combine these references. Each of the references attempts to solve a different problem. *Blonder* addresses the problem of credit card fraud and provides a method for automatically obtaining authorization for a credit card transaction. *Lotvin* attempts to solve the problem of how to increase the educational and cultural level of children. Neither reference suggests or teaches a solution to the problem of how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Addressing the second *Rouffet* prong, there is no suggestion from the cited prior art that the references should be combined. Neither of the prior art references address the subject of minors using the internet to buy goods and services. *Blonder* only discloses minors using "brick and mortar" stores, where their status as a minor is determined only from sight by the retailer and the system seeking authorization does not know whether a minor or an adult is seeking to purchase goods or services. *Lotvin* only discloses purchases being made on the website of the educational services provider with earned "points" from "appropriate menus presented to the child offering goods and services that may be optionally based on the parent's preferences." (*Lotvin*, col. 7, lines 1-3). Therefore, there is no suggestion from the prior art that the reference should be combined.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

The third *Rouffet* prong provides that the motivation to combine references may come from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Certainly there has been no evidence provided showing that the cited prior art references are of special importance in a particular field.

Therefore, because there has been no evidence presented showing the motivation to combine the cited references, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Appellant therefore requests that the Board find the claims presented on appeal to be patentable.

b. Claims 1, 6-9 and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,674,368 issued to Hawkins, et al.

(1) Review of the cited prior art. Hawkins discloses methods and apparatus for tracking the location of assets and persons. (Hawkins, Abstract). Position information is provided to a central monitoring station aperiodically. *Id.* Hawkins discloses the need to provide improved methods and apparatus for tracking criminals and goods in transit. (Hawkins, columns 1 and 2). Alerts may be sent out by email, pop-ups, facsimile message and pagers depending upon the level of alert required. (Hawkins, col. 12, lines 12-31). Contact addresses and types of notifications for given alerts may be determined by the authorized user. *Id.* The authorized user is the person receiving the alerts. (Hawkins, col. 23, lines 53-54). A high level alert may be triggered by the movement of a criminal offender and a low level alert may be assigned for a violation associated with a child leaving a school yard. (Hawkins, col. 16, lines 57-67).

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(2) The cited prior art fails to teach or suggest all the claim limitations of claims 6-9 and 21-24. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests sending an email to a parent that describes the e-transaction proposal and solicits the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal.

The Examiner admits that neither Lotvin nor Blonder teach or suggest the limitations of claims 6-9 and 21-24 and therefore, the Examiner cites Hawkins for those limitations. (Final Office Action, p. 4). However, Hawkins merely discloses that an email may be sent to a parent to alert the parent that a child has left a school yard. The triggering event for sending an email to a parent in Hawkins is that a child left a school yard, not a proposed e-transaction. The content of the email message could not be more different and the events triggering the email messages could not be more different between Hawkins and Appellant's claimed invention.

Therefore, because the cited prior art references fail to teach or suggest sending an email to a parent that describes the e-transaction proposal and solicits the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 6-9 and 21-24 presented on appeal are patentable.

(3) The cited prior art fails to teach or suggest all the claim limitations of claim 7. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests that the parent's e-mail address is provided by the minor along with the proposed e-transaction.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

The Examiner admits that neither Lotvin nor Blonder teach or suggest the limitations of claim 7 and therefore, the Examiner cites Hawkins for those limitations. (Final Office Action, p. 4). However, Hawkins does not teach that the minor provide the e-mail address along with the proposed e-transaction. Indeed, Hawkins only discloses that the email address is provided by the authorized user. None of the cited prior art references teach or suggest that the email address is provided by the minor, a limitation claimed by Appellant.

Therefore, because the cited prior art references fail to teach or suggest that the parent's e-mail address is provided by the minor along with the proposed e-transaction, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claim 7 presented on appeal is patentable.

(4) No evidence has been provided for a teaching, motivation or suggestion to select and combine the cited references. Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented because there has been no evidence provided relevant to the finding of whether there is a teaching, motivation or suggestion to select and combine the references. The Examiner has stated that it would be obvious to modify the Blonder and hence Lotvin to use email instead of paging because email is more expeditious.

Appellant has already provided an analysis of the lack of evidence for combining Lotvin and Blonder. Continuing now with Hawkins and first, addressing the first *Rouffet* prong, there is no evidence that the nature of the problem sought to be solved provides any evidence of a motivation to combine these references. Hawkins addresses the problem of tracking people and shipments of goods and does not address at all the concerns of (1) increasing the educational and cultural level of children (Lotvin), (2) decreasing the level of credit card fraud by providing a method of automatically obtaining authorization for a credit card transaction (Blonder) or (3)

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Addressing the second *Rouffet* prong, there is no suggestion from the cited prior art that the references should be combined. None of the prior art references address the subject of minors using the internet to buy goods and services.

The third *Rouffet* prong provides that the motivation to combine references may come from the ordinary knowledge of those skilled in the art that certain references are of special importance in a particular field. Certainly there has been no evidence provided showing that the cited prior art references are of special importance in a particular field.

Therefore, because there has been no evidence presented showing the motivation to combine the cited references, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Appellant therefore requests that the Board find claims 6-9 and 21-24 presented on appeal to be patentable.

(5) Non-analogous art cannot be used to establish obviousness. Appellant respectfully asserts that Hawkins is non-analogous art and therefore may not be combined with other prior art to establish obviousness. 35 U.S.C. § 103 requires that obviousness be determined on the basis of whether at the time the invention was made, a person of ordinary skill in the art to which the subject matter pertains would have found the claimed invention as a whole obvious. In the case *In re Wood*, 599 F.2d 1032 (CCPA 1979), the Court stated:

The determination that a reference is from a nonanalogous art is therefore twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved.

Appcal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

Considering the first prong of *Wood*, Appellant respectfully asserts that Hawkins is not even marginally within the field of the inventor's endeavor. Appellant's field of endeavor is the furtherance of the use of e-commerce by minors. Hawkins field of endeavor is, as stated therein, tracking the geographic position of assets. (Hawkins, col. 1, lines 14-15).

Considering, then, the second prong of *Wood*, Appellant respectfully asserts that Hawkins is not reasonably pertinent to the particular problem with which the inventor was involved. As discussed, *supra*, Hawkins addresses the problem of tracking people and shipments of goods and does not address at all the concerns of how to allow minors to fully but safely participate in e-commerce transactions, which is the problem sought to be solved by Applicant.

Therefore, because Hawkins is nonanalogous art and cannot be used to support an obviousness rejection, Appellant respectfully requests that the Board finds that claims 6-9 and 21-24 presented on appeal are patentable.

c. Claims 1, 10-12, 14, 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,742,141 issued to Miller.

(1) Review of the cited prior art. Miller provides a solution to the problem of repeated computer system and software failure or instability. (Miller, Abstract). The solution disclosed by Miller is a database that contains entries with executable code that can make use of these services in order to monitor, disclose and solve specific problems. *Id.* More specifically, in FIG. 12C, Miller discloses a user interface of the customer screen where the customer can use a checkbox to enable the reporting of minor problems with the software and can use another checkbox to enable the reporting of all problems. (Miller, col. 15, lines 15-21).

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(2) The cited prior art fails to teach or suggest all the claim limitations of claims 11-12 and 25. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests providing a list of each item sought by the minor in the e-transaction proposal and allowing the parent to selectively reject one or more items on the list, wherein the e-transaction instructions of the reply message comprise the selective rejections.

The Examiner cites Miller for disclosing a clickable option menu that allows a user to select options. Miller allows a customer to use a checkbox to enable the reporting of minor problems with the software and can use another check box to enable the reporting of all problems. However, that is not what Appellant claims. Appellant claims:

- a. providing a list of each item sought by the minor in the e-transaction proposal;
- b. allowing the parent to selectively reject one or more items on the list; and
- c. wherein the e-transaction instructions of the reply message comprise the selective rejections.

No reference has been cited that suggests or claims these three claimed limitations. Therefore, because the cited prior art references fail to teach or suggest these three claimed limitations, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 11-12 and 25 presented on appeal are patentable.

d. Claims 1, 3 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,178,407 issued to Lotvin, et al. in view of U.S. Patent No. 5,708,422 issued to Blonder, et al and further in view of U.S. Patent No. 6,052,675 issued to Checchio.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(1) Review of the cited prior art. Checchio provides a method and apparatus for pre-authorizing transactions for a credit card. (Checchio, Abstract). Linked with a credit card number in a database is a Personal Identification Code (PIC). *Id.* Whenever a consumer wishes to use the credit card, the consumer must provide both the credit card number and the PIC or the authorization for use of the credit card will not be granted by the credit card company. (Checchio, col. 4, lines 40-51). The owner of the credit card may be issued several PIC's, each having its own spending limit so that children may be given the credit card but are limited by the amount they can charge because of the PIC given to each of the children. (Checchio, col. 6, lines 41-62).

(2) The cited prior art fails to teach or suggest all the claim limitations of claims 3 and 18. Applicant respectfully asserts that a *prima facie* case of obviousness has not been presented because none of the three cited references teaches nor suggests that the reply message from the parent comprises a credit card number for electronically funding the e-transaction.

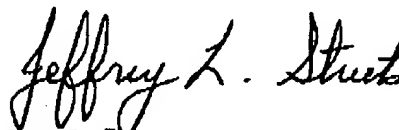
Checchio does not disclose providing an e-transaction instruction in a responding message to charge goods or services to a particular credit card that is supplied in the message. Checchio merely discloses that a PIC number may be associated with a given credit card so that when the credit card is used, the PIC must be used with the credit card for authorization, much like the common use of a debit card. The credit card number must be supplied with the PIC. In other words, very similar to the common use of a debit card, when a customer presents the debit card for use, the customer must enter a Personal Identification Number (PIN) before the transaction can be authorized by the debit card issuing bank. This is not what Applicant claims.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

Therefore, because the cited prior art references fail to teach or suggest that the reply message from the parent comprises a credit card number for electronically funding the e-transaction, Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented. Therefore, Appellant respectfully requests the Board to find that claims 3 and 18 presented on appeal are patentable.

Appellant respectfully asserts that a *prima facie* case of obviousness has not been presented for the claims presented on appeal and therefore respectfully request that this Board find that the claims presented on appeal are patentable.

Respectfully submitted,



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Appeal Brief
 Dkt. No.: AUS920010319US1
 (IBM/0013)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
 BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

IN RE APPLICATION OF:
 Rabindranath Dutta, *et al.*

SERIAL NO: 09/963,715

CONFIRMATION NO.: 9288

FILED: September 26, 2001

FOR: Method and System for Parent
 Controlled E-Commerce

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EXAMINER: Joseph A. Fischetti

GROUP ART UNIT: 3627

APPENDIX IN SUPPORT OF APPELLANT'S APPEAL BRIEF

(8) CLAIMS APPENDIX	21
(9) EVIDENCE APPENDIX.....	27
(10) RELATED PROCEEDINGS APPENDIX.....	28

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(8) CLAIMS APPENDIX

What is claimed is:

1. (previously presented) A method for a server to obtain parent authorization of minor-proposed e-transactions comprising:
 - electronically receiving an e-transaction proposal from the minor;
 - automatically creating and electronically transmitting a first message to the parent, the message describing the e-transaction proposal and soliciting the parent to authorize an e-transaction that comprises at least a part of the e-transaction proposal;
 - electronically receiving a reply message from the parent authorizing the e-transaction and providing e-transaction instructions; and
 - automatically executing the e-transaction instructions.
2. (previously presented) The method of claim 1, further comprising:
 - creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.
3. (previously presented) The method of claim 1, wherein the e-transaction instructions comprise a credit card number for electronically funding the e-transaction.
4. (previously presented) The method of claim 1, wherein the step of electronically receiving a reply message from the parent authorizing the e-transaction comprises:
 - receiving a server-verifiable transaction authorization code.
5. (previously presented) The method of claim 5, wherein the authorization code is a transaction specific code.
6. (original) The method of claim 1, wherein the first message is an e-mail addressed to the parent's e-mail address.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

7. (original) The method of claim 1, wherein the parent's e-mail address is provided by the minor along with the proposed e-transaction.
8. (original) The method of claim 1, wherein the parent's e-mail address is available from an accessible database.
9. (original) The method of claim 8, wherein the parent's e-mail address is provided by the parent prior to the server's receipt of the minor's proposed e-transaction.
10. (previously presented) The method of claim 1, wherein the first message to the parent provides options for the parent to approve the e-transaction proposal and to reject the e-transaction proposal.
11. (previously presented) The method of claim 1, further comprising:
 - providing in the first message a list of each item sought by the minor in the e-transaction proposal; and
 - allowing the parent to selectively reject one or more of the items on the list, wherein the e-transaction instructions of the reply message comprise the selective rejection.
12. (original) The method of claim 1, wherein the first message comprises clickable options for providing the parent's reasons for rejecting items from the proposed e-transaction.
13. (previously presented) The methods of claim 1, wherein the e-transaction proposal involves the purchase of goods, and wherein the first e- message comprises information related to content of the goods involved in the e-transaction proposal.
14. (original) The method of claim 1, wherein the first messages provide clickable hyperlinks enabling the parent to access reviews by others of the goods sought in the e-transaction proposal.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

15. (withdrawn) A method for a server to provide a parent with control over an e-transaction proposed by a minor comprising:

- electronically receiving a proposed e-transaction from a minor;
- receiving an e-mail address of the minor's parent;
- creating an electronically transmittable message addressed to the parent's e-mail address;

- electronically providing the parent with a description of the proposed e-transaction;

- electronically receiving a reply message from the parent comprising the parent's instructions regarding the proposed e-transaction;

- disposing of the proposed e-transaction in accordance with the parent's instructions; and

- electronically notifying the minor of the parent's instructions regarding the proposed e-transaction proposed by the minor.

16. (previously presented) A computer program product including instructions embodied on a computer readable medium, the instructions comprising:

- instructions for receiving an e-transaction proposal from a minor;

- instructions for automatically creating and electronically transmitting a first message to a parent, the message describing the e-transaction proposal and soliciting the parent to authorize an e-transaction that comprises at least a part of the proposed e-transaction;

- instructions for receiving a reply message from the parent authorizing the e-transaction and providing e-transaction instructions; and

- instructions for executing the e-transaction instructions.

17. (original) The computer program product of claim 16, further comprising:

- instructions for creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

18. (previously presented) The computer program product of claim 16, wherein the e-transaction instructions comprise a credit card number for electronically funding the e-transaction.
19. (previously presented) The computer program product of claim 16, wherein the instructions for receiving a reply message from the parent comprises:
receiving a server-verifiable transaction authorization code.
20. (previously presented) The computer program product of claim 19, wherein the authorization code is a transaction specific code.
21. (original) The computer program product of claim 16, wherein the first message is an e-mail message addressed to the parent's e-mail address.
22. (original) The computer program product of claim 21, wherein the parent's e-mail address is provided by the minor along with the proposed e-transaction.
23. (original) The computer program product of claim 21, wherein the parent's e-mail address is available from an accessible database.
24. (original) The computer program product of claim 23, wherein the parent's e-mail address is provided by the parent prior to the server's receipt of the minor's proposed e-transaction.
25. (previously presented) The computer program product of claim 21, further comprising:
instructions for providing in the first message a list of each item sought by the minor in the e-transaction proposal; and
instructions for allowing the parent to selectively reject one or more of the items of the e-transaction proposal, wherein the e-transaction instructions of the reply message comprise the selective rejection.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

26. (withdrawn) A computer system for obtaining parent authorization of minor-proposed e-transactions comprising:

first receiving means for electronically receiving an e-transaction proposal from the minor;

messaging means for automatically creating and electronically transmitting a first message to the parent, wherein the message describes the e-transaction proposal and solicits the parent to enter a transaction authorization code to enable consummation of the proposed e-transaction;

second receiving means for electronically receiving a reply message from the parent providing a transaction authorization code and e-transaction instructions; and

executing instructions for automatically executing the e-transaction instructions.

27. (withdrawn) The computer system of claim 26, further comprising:

notification means for creating and sending an electronically transmittable third message notifying the minor of the parent's response to the proposed e-transaction.

28. (withdrawn) The computer system of claim 26, wherein the reply message comprises a credit card number for electronically funding the minor's proposed e-transaction.

29. (withdrawn) The computer system of claim 26, wherein the reply message comprises a server-verifiable transaction authorization code.

30. (withdrawn) The computer system of claim 26, wherein the reply message comprises a transaction specific code.

31. (withdrawn) The computer system of claim 26, wherein the first message is an e-mail message addressed to the parent's e-mail address.

32. (withdrawn) The computer system of claim 26, further comprising:

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

submission means for allowing the minor to submit the parent's e-mail address along with the proposed e-transaction.

33. (withdrawn) The computer system of claim 26, wherein the parent's e-mail address is available from an accessible database.

34. (withdrawn) The computer system of claim 33, further comprising:
submission means for allowing the parent to submit the parent's e-mail address prior to receiving the minor's proposed e-transaction.

35. (withdrawn) The computer system of claim 26, further comprising:
approval means for allowing the parent to approve or reject the proposed e-transaction through clickable options provided in the first message.

36. (withdrawn) The computer system of claim 26, further comprising:
approval means for allowing the parent to approve or reject individual items of the proposed e-transaction through clickable options provided in the first message.

37. (withdrawn) The computer system of claim 26, wherein the proposed e-transaction involves the purchase of goods, and wherein the first e-mail message comprises information related to content of the goods involved in the proposed e-transaction.

38. (withdrawn) The computer system of claim 26, further comprising:
research means for allowing the parent to research reviews of the good sought in the e-transaction proposal through clickable hyperlinks provided in the first message.

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(9) EVIDENCE APPENDIX

NONE

Appeal Brief
Dkt. No.: AUS920010319US1
(IBM/0013)

(10) RELATED PROCEEDINGS APPENDIX

NONE